

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ALABAMA  
WESTERN DIVISION

1	UNITED STATES OF AMERICA,		CASE NO. 7:24-cr-00078-ACA-JHE-1
2			
3	Plaintiff,		
4			
5	v.		
6	SEBASTIAN JAQUE BROWN,		
7	Defendant.		

\* \* \* \* \*

**TRANSCRIPT OF PRETRIAL DETENTION HEARING**

\* \* \* \* \*

12	FOR THE PLAINTIFF:	William Reed McComb, I
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BEFORE THE HONORABLE NICHOLAS A. DANIELLA, UNITED STATES  
MAGISTRATE JUDGE, at Birmingham, Alabama, on Monday, March 11,  
2024, commencing at 10:13 a.m.

The proceedings were reported by a stenographic court reporter.  
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**Transcript prepared by:**  
Pamela G. Weyant, RDR, CRR, CCR  
Official Court Reporter

I N D E X

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1 (Proceedings commenced at 10:13 a.m. in open court.)

2 THE COURT: This is 24-cr-78, United States versus  
3 Brown.

4 Mr. Brown, good morning.

5 THE DEFENDANT: Good morning, sir.

6 THE COURT: Mr. Brown, we're here today on the  
7 Government's motion for pretrial detention. In this hearing  
8 it's my job to determine whether there are conditions of  
9 release that will reasonably assure your appearance and the  
10 safety of the community. You have the right to counsel today,  
11 and you are here with Miss Robin Robertson from the FPD's  
12 office.

13 MS. ROBERTSON: Good morning, Your Honor.

14 THE COURT: Good morning.

15 The Government is represented by Mr. Will McCombs  
16 [sic].

17 MR. MCCOMB: Good morning, Your Honor.

18 THE COURT: Mr. McCombs, I have this as a presumption  
19 case; correct?

20 MR. MCCOMB: Yes, Your Honor. As a result of Count 2  
21 of the indictment, there is a rebuttal presumption that the  
22 defendant is both a danger to the community and a flight risk.

23 THE COURT: Right. Assume with me for the moment that  
24 the defendant rebuts the presumption. Would you be seeking  
25 detention based on flight risk or danger?

1 MR. MCCOMB: Danger, Your Honor. Well, actually,  
2 under both, but I think danger is the more pertinent one.

3 THE COURT: Thank you. And you agree with me that the  
4 burden of proof on danger is clear and convincing evidence?

5 MR. MCCOMB: Yes, Your Honor.

6 THE COURT: Flight would be preponderance?

7 MR. MCCOMB: Yes, Your Honor.

8 THE COURT: Thank you.

9 Miss Robertson, do you agree with all that?

10 MS. ROBERTSON: Yes, Your Honor.

11 THE COURT: And given the presumption, you're up,  
12 unless there's anything else that you want to talk about  
13 up-front.

14 MS. ROBERTSON: No, Your Honor. We have proposed two  
15 third-party custodians, and based on the probation office's  
16 report that we received this morning, we would be proposing  
17 Mr. Brown's sister, Sh'Nora Davis, as a third-party custodian.  
18 I'm happy to call her at this time.

19 Your Honor, first, however, I just would like to put  
20 on the record a couple of things of note. Your Honor, just to  
21 make sure the Court is aware, under the pretrial services  
22 report, I would highlight that the allegations contained under  
23 criminal history largely stem from the same conduct that has  
24 given rise to the federal charges, so just to make sure that  
25 that doesn't appear to be additional criminal conduct.

1           And, Your Honor, I'd like to just give the Court a  
2     little bit of history about this case. This case has actually  
3     been with my office since January. Mr. Brown was initially  
4     approached via a target letter my office was appointed to  
5     assist at that point.

6           At that juncture, Your Honor, I asked the Government  
7     for some preliminary discovery, anything that they could  
8     provide to me to add color to the charges and the allegations.  
9     I was told that there was nothing available to provide to me  
10    at that time.

11          I also asked how best to reach Mr. Brown and was told  
12    that they had had difficulty tracking him down, and so it fell  
13    upon my office, Your Honor, to locate Mr. Brown and to try to  
14    color in some of the allegations of what occurred here. We  
15    were able to identify and locate Mr. Brown with very little  
16    difficulty. I reached out. We set up a meeting. Mr. Brown  
17    and I sat down at the Tuscaloosa County Library and had a  
18    couple of hours to sit and discuss the case. But again, Your  
19    Honor, at that point we had very little in the way of facts  
20    and allegations underlying the charge, although I did  
21    understand from the Government that the case involved firearms  
22    which were alleged to have been equipped with switches, as  
23    well as an allegation about an amount of marijuana that would  
24    support a drug-trafficking charge.

25          So I did have the opportunity to advise Mr. Brown

1 about potential charges that could be placed upon him,  
2 potential sentencing, including mandatory minimum sentences of  
3 up to 30 years that could go along with those charges.

4 So after that meeting, Your Honor, I then had an  
5 opportunity, accompanied by Mr. Taggart, an investigator with  
6 my office, to go visit Mr. Brown at his mother's residence,  
7 and we were able to spend some time again, maybe an hour or  
8 two with him, at his mother's residence. But again, we still  
9 were lacking in discovery from the Government. And based on  
10 some information that was provided to us and that our  
11 investigation revealed, we had some questions about the  
12 legality of the search and whether it was conducted in  
13 compliance with constitutional requirements.

14 Your Honor, to be frank, the indictment of Mr. Brown  
15 came out of thin air for me. Admittedly, we were working with  
16 the resources that we had, to include trying to work with his  
17 local counsel in Tuscaloosa. I had reached out to that  
18 individual, hoping that I might be able to get some semblance  
19 of discovery. Unfortunately, that individual had left the  
20 Tuscaloosa County Public Defender's Office, and so it took  
21 some time before I heard back from a supervising attorney  
22 there, who advised me that she had left and that they did not  
23 have additional information to provide to us.

24 And, so, in my experience, Your Honor -- and the  
25 Government is free to indict individuals at any time. I'm

1 certainly aware of that. But in my experience, when I've had  
2 target letters, Your Honor, there's usually -- if there's a  
3 time sensitivity, I'm usually told there is a time sensitivity  
4 and I try to meet those expectations. Otherwise, Your Honor,  
5 I do my due diligence to get into a position where I feel  
6 comfortable advising my client and then returning to the  
7 Government to explore additional negotiations. Here, the  
8 Government -- thank you -- the Government reached out to me  
9 early last week to advise me that they were no longer viewing  
10 Mr. Brown as a target and intended to indict him. And so his  
11 arrest just a day or two thereafter was quite surprising to  
12 me.

13           What I can say to the Court is that at no point in  
14 time did I have any difficulty locating with [sic] or meeting  
15 with Mr. Brown. He has been aware of the severity of  
16 potential charges since January. He was arrested at his  
17 mother's home first thing in the morning. And so, Your Honor,  
18 this is not a situation of an individual that, from my  
19 perspective, has been trying to avoid consequences. He's  
20 someone that was dutifully working through counsel that was  
21 appointed to him.

22           And, Your Honor, I was quite surprised not only that  
23 he was -- that the case was proceeded on in that way, but  
24 again, defer to the Government at their discretion, but I do  
25 think that Mr. Brown, if he had wanted to flee, if he had

1 wanted to do something ill-advised in terms of danger to the  
2 community, he has been aware of these potential allegations  
3 for going on, I think, two months. He's had state charges  
4 pending related to the same conduct, and again, he was  
5 arrested at his mother's home without incident last week  
6 shortly after the indictment was returned.

7 So, Your Honor, at this point we would call Sh'Nora  
8 Davis to testify regarding potentially serving as Mr. Brown's  
9 third-party custodian.

10 THE COURT: Come on up, ma'am.

11 (SH'NORA DAVIS, being first duly sworn, was examined  
12 and testified as follows:)

13 THE COURTROOM DEPUTY: Will you please sit and state  
14 your name and spell your name into the microphone for the  
15 record.

16 THE DEFENDANT: Sh'Nora Davis, S-H apostrophe N-O-R-A  
17 Davis.

18 THE COURTROOM DEPUTY: Thank you.

19 THE COURT: Good morning.

20 THE DEFENDANT: Good morning.

21 DIRECT EXAMINATION

22 BY MS. ROBINSON:

23 Q. Good morning, Miss Davis.

24 A. Good morning.

25 Q. Miss Davis, how do you know Sebastian Brown?



1 A. That's my baby brother.

2 Q. Baby brother. Do you mind if I ask you how old you  
3 are?

4 A. 32.

5 Q. And how old is your brother?

6 A. 19.

7 Q. 19. Okay. So sister but quite a few years older.

8 A. Mama.

9 Q. Substitute. I get that.

10 Are you -- I know you've just sat through this initial  
11 conversation, but I just want to make sure, are you aware that  
12 your brother has been harge with federal crimes?

13 A. Yes, ma'am.

14 Q. And are you aware that those crimes include  
15 allegations that he was in possession of firearms?

16 A. Yes.

17 Q. And I -- thank you. I'll just ask that you respond  
18 out loud because we have a court reporter here who's trying to  
19 take down everything that's said.

20 And that those allegations involve marijuana as well?

21 A. Yes, ma'am.

22 Q. Where do you reside?

23 A. In Madison, Alabama.

24 Q. Is it an apartment or a house?

25 A. An apartment.

1 Q. Okay. Do you lease or do you own?

2 A. Lease.

3 Q. Okay. How long have you been at this address?

4 A. I've been at this address for about three months, but  
5 altogether, Madison County, five years.

6 Q. Five years in Madison County?

7 A. Uh-huh.

8 Q. Okay. And what do you do for work?

9 A. I'm a lead front desk associate at -- for Hilton.

10 Q. So for a hotel?

11 A. Uh-huh.

12 Q. So -- and you said you're the lead front desk  
13 associate?

14 A. Uh-huh.

15 Q. And what are your working hours? Do you have the same  
16 schedule every week?

17 A. Yes, ma'am, 7 a.m. to 3 p.m. Monday through Friday.

18 Q. Monday through Friday. Okay. And can you describe  
19 the apartment, how many bedrooms, how many bathrooms?

20 A. My apartment is upstairs, two bedrooms, two bath.

21 Q. And does anyone live there with you?

22 A. No, ma'am.

23 Q. Do you have any firearms at the residence?

24 A. No, ma'am.

25 Q. Do you allow firearms into the residence?

1 A. No, ma'am.

2 Q. Do you have any drugs at the residence?

3 A. No, ma'am.

4 Q. Do you allow drugs into the residence?

5 A. No, ma'am.

6 Q. Okay. And would you be willing -- if the Court were  
7 to allow your brother to be released on bond, would you let  
8 him live with you at the apartment?

9 A. Most definitely.

10 Q. Okay. I know that there was -- and you and I have  
11 discussed this -- that there is the potential of needing to  
12 get him added to your lease.

13 A. Uh-huh.

14 Q. If the Court were to release him on bond -- were to be  
15 willing to release him on bond to live with you, would you be  
16 able to have a conversation with your leasing office --

17 A. Yes, ma'am.

18 Q. -- and ask them to add him to your lease?

19 A. Yes, ma'am.

20 Q. And do you anticipate any difficulty in getting him  
21 added to your lease?

22 A. No, ma'am.

23 Q. Okay. Miss Davis, do you have any criminal history  
24 yourself?

25 A. No, ma'am.

1 Q. Okay. And you said that you're employed full-time?

2 A. Yes, ma'am.

3 Q. How long have you been working for the Hilton?

4 A. For over a year.

5 Q. Over a year. What did you do before that?

6 A. I opened up Mazda Toyota Manufacturing Company.

7 Q. Okay. So gainfully employed for --

8 A. Yeah, I was there for four years.

9 Q. Okay. Very good.

10 Now, if the Court were to ask you to serve as a  
11 third-party custodian, would you be willing to act in that  
12 responsibility at the Court's request?

13 A. Most definitely.

14 Q. And do you understand that that would mean having full  
15 awareness of any condition the Court put in place that your  
16 brother would have to follow?

17 A. Yep.

18 Q. And then if you found out or you had any suspicion  
19 that your brother had broken any of those rules, would you be  
20 willing to notify the Court?

21 A. Most definitely.

22 Q. Any hesitation --

23 A. Oh, no.

24 Q. Any problem telling on your brother?

25 A. No, ma'am.

1 Q. Okay. And is your brother -- just in your experience,  
2 has he been generally respectful and followed any rules that  
3 you've given him in the past?

4 A. Yes, ma'am. In fact, he was waiting on his court date  
5 for this stuff because I had talked to -- reached out to a  
6 couple colleagues of mine about him actually getting  
7 opportunity -- employment opportunities and stuff up there  
8 already.

9 Q. Okay.

10 A. Yes, ma'am.

11 Q. So if the Court were to allow him to work, you would  
12 be able to help him --

13 A. Yes, ma'am.

14 Q. -- get a job?

15 And then regarding your work schedule, I know you were  
16 able to come today --

17 A. Uh-huh.

18 Q. If your brother had additional court dates in  
19 Birmingham or in Tuscaloosa, would you be able to escort him  
20 to those hearings?

21 A. Yes, ma'am.

22 Q. And be able to get that time off work?

23 A. Yes, ma'am.

24 Q. Okay. And if he were ultimately sentenced to serve a  
25 sentence, would you be able to get him to the facility to

1 serve that time?

2 A. Yes, ma'am.

3 MS. ROBERTSON: Your Honor, that's all the questions I  
4 have for now. Thank you.

5 THE COURT: Thank you.

6 Mr. McCombs?

7 MR. MCCOMB: Thank you, Your Honor.

8 CROSS-EXAMINATION

9 BY MR. MCCOMB:

10 Q. Good morning, Miss Davis.

11 A. Good morning.

12 Q. And I've just got a few follow-up questions to that.

13 And I missed -- I did not hear, what were your working  
14 hours?

15 A. 7 a.m. to 3 p.m.

16 Q. And how long have you lived outside of the home or  
17 outside of the home Mr. Brown's lived in?

18 A. For about nine years -- eight, nine years.

19 Q. Eight or nine years?

20 A. Uh-huh. But I'm pretty much home every other weekend,  
21 every weekend.

22 Q. Okay. Home in Tuscaloosa?

23 A. Uh-huh.

24 Q. You indicated that he would need to be added to your  
25 lease.

1 A. Uh-huh.

2 Q. What -- do you have any idea what goes into adding  
3 someone to a -- to your lease for your apartment complex?

4 A. So I briefly called this morning. I tried to speak  
5 with someone. The actual property manager wasn't available,  
6 but I did talk to an assistant and she said they do it by a  
7 case-by-case basis.

8 Q. Okay. Did they indicate anything about a background  
9 check or anything like that?

10 A. Oh, no, ma'am [sic]. The girl was fairly new as well.

11 MR. MCCOMB: Your Honor, may we approach with a  
12 quick --

13 THE COURT: You may.

14 Off the record.

15 (Discussion off the record.)

16 THE COURT: Back on the record.

17 Q. (By Mr. McComb) And without going too deep into  
18 anything, Miss Davis, are you aware of any prior criminal  
19 activity or criminal conduct that your brother has been  
20 involved with in recent years?

21 A. Yes, sir.

22 Q. Okay. And again, without going too much into it, can  
23 you tell us roughly the dates that this criminal activity that  
24 you're aware of occurred?

25 A. It depends on how far you're talking back.

1 Q. Okay.

2 MS. ROBERTSON: Your Honor, I would ask that the  
3 Government limit its question to matters that have been  
4 resolved by a judicial body. Does that make sense?

5 THE COURT: I think that's fair given the  
6 off-the-record discussion.

7 MR. MCCOMB: That's right.

8 Q. (By Mr. McComb) What about the criminal activity that  
9 had been resolved by some type of adjudication? Without going  
10 too deep into what that is, are you aware of that and when it  
11 occurred?

12 A. Yes. My brother, I think he did time for a time,  
13 seven months for something, and --

14 MR. MCCOMB: Okay. I have no further questions at  
15 this time, Your Honor.

16 THE COURT: Thank you.

17 Miss Robertson?

18 MS. ROBERTSON: Nothing further, Your Honor.

19 THE COURT: Thank you.

20 THE WITNESS: Thank you.

21 THE COURT: You can step down. Thanks for being here.

22 THE WITNESS: Yes, sir.

23 THE COURT: Miss Robertson, what's next?

24 MS. ROBERTSON: Your Honor, we would just note for the  
25 Court that, first off, I believe -- and I think the probation



1 office indicated that Miss Davis would be a suitable  
2 third-party custodian. Obviously, we would need to resolve  
3 the matter of the lease, and so we'd not be asking for the  
4 Court to release her until the Court received confirmation  
5 that he was permitted to reside at that residence.

6 Your Honor, I believe that we've rebutted any concern  
7 about flight risk given the fact that Mr. Brown has been aware  
8 of these potential charges and potential penalties that could  
9 go along with them for a couple months and has made no effort  
10 to flee the jurisdiction and was fully compliant with his  
11 arrest the other day and has been fully compliant and  
12 cooperative with my office in trying to investigate and best  
13 advise him.

14 Your Honor, we would ask the Court -- I know that  
15 Miss Davis works, and we wouldn't be asking her to discontinue  
16 working, but if the Court would release him to her residence,  
17 we would ask the Court to also impose location monitoring  
18 however the Government -- excuse me -- however the probation  
19 office saw fit to make sure Mr. Brown was at the location and  
20 would be amenable to a 24/7 restriction to the residence  
21 unless and until -- if the Court were to allow Mr. Brown to  
22 work, then he would be allowed to leave for work and obviously  
23 court, legal meetings, other necessities.

24 But while I do acknowledge that he has these charges,  
25 I know that there's been some mention of juvenile history that

1 occurred over five years ago is my understanding. The -- he  
2 has no adult convictions. The allegations that are listed out  
3 in the pretrial services report largely relate to the charged  
4 allegations that we're here for, and Mr. Brown would be  
5 subject, in terms of his use of marijuana that he's admitted  
6 to -- he would be subject to mandatory drug testing and,  
7 obviously, searches by probation to confirm no firearms and no  
8 other threats while he's residing with his sister.

9 Also, if he is living in Madison County, Your Honor,  
10 that's going to remove him some distance from where these  
11 allegations are alleged to have occurred. But, Your Honor,  
12 given his age, his relatively minimal criminal history, his  
13 full cooperation and compliance with my office for the last  
14 two months, and the suitability of his sister as a third-party  
15 custodian, we would ask the Court to release Mr. Brown under  
16 those conditions.

17 THE COURT: Let me say a few things. I am going to  
18 hear from the Government, so let's assume for now that we're  
19 moving past the presumption. Miss Robertson, I'm not going to  
20 get into a lot of what you mentioned up-front, though I hear  
21 what you're saying. You make a lot of good points. I don't  
22 think -- well, I won't speak for Mr. McCombs. I agree with  
23 you, I don't see risk of flight. And just so we're all on the  
24 same page, the Government's -- excuse me -- the probation  
25 office's PTSR recommended detention, I agree with what you

1 said, the third-party custodian memo says Miss Davis is  
2 suitable, and everything she said today I think makes her  
3 suitable. But my understanding -- and Officer Eubanks is  
4 here -- is that probation still is recommending detention.

5 MS. ROBERTSON: So, Your Honor, if I made any  
6 indication otherwise, I was just speaking --

7 THE COURT: No, that's not to correct anything you  
8 were saying. That's just, again, to ensure we're all on the  
9 same page. And you can get to this now or later, but I have  
10 from the PTSR that Mr. Brown graduated from Northridge in  
11 2023, so that's May or June, and then I take your very good  
12 point that, really, the state charges line up with the  
13 federally charged conduct. That's November of 2023. And so  
14 far as I can tell here, not been in trouble since, has been  
15 cooperating with you since January. I think Mr. Brown has not  
16 been working; is that right?

17 MS. ROBERTSON: That's my understanding, Your Honor,  
18 but --

19 THE COURT: And so answer this now or later or not at  
20 all. What has he been doing?

21 MS. ROBERTSON: Your Honor, my understanding is he's  
22 been living with his mother. I cannot speak to -- you know,  
23 he just graduated from high school, and I do commend him for  
24 that, Your Honor. Particularly, he spent seven months in  
25 custody. The fact that he was able to get the train back on

1 the tracks and graduate from high school in 2023 I think is  
2 quite commendable. I've certainly represented a number of  
3 clients where that has been a fully derailing incident,  
4 particularly at that young of a age. So the fact that he  
5 graduated, Your Honor, I think is commendable.

6 He only -- he graduated less than a year ago, so  
7 there's only been so much time that he has been employable. I  
8 think that he is probably indebted to his very generous mother  
9 and family for sheltering and feeding him for a period of  
10 time. But as his sister said, Your Honor, she's already  
11 looked into potential employment opportunities for Mr. Brown.  
12 Obviously, I think that would be --

13 THE COURT: Right.

14 MS. ROBERTSON: -- to his benefit to have the  
15 opportunity to pursue gainful employment if this Court would  
16 release him. And I think he's amenable to pursuing those  
17 opportunities that his sister has identified.

18 THE COURT: Mr. McCombs, you're up.

19 MR. MCCOMB: Yes, Your Honor. As far as an argument,  
20 or would you like me to go ahead and put the witness on?

21 THE COURT: I think if you're going to put on  
22 evidence, let's do that first unless there is anything you  
23 want to respond to directly at this point.

24 MR. MCCOMB: No. I'll just go ahead and put evidence  
25 on.

1 The Government calls Jared Olvey to the stand.

2 THE COURT: Come on up, sir.

3 (OFFICER JARED OLVEY, being first duly sworn, was  
4 examined and testified as follows:)

5 THE COURTROOM DEPUTY: All right. You may be seated.  
6 And please state and spell your name into the microphone for  
7 the record.

8 THE WITNESS: It's Jared Olvey, J-A-R-E-D O-L-V-E-Y.

9 THE COURT: Good morning.

10 THE WITNESS: Good morning.

11 THE COURT: It's not a great setup. Just do your best  
12 to talk into the microphone and face out.

13 MR. MCCOMB: Thank you, Judge.

14 DIRECT EXAMINATION

15 BY MR. MCCOMB:

16 Q. Tell us where you work, Mr. Olvey.

17 A. Work for the Tuscaloosa Police Department, assigned as  
18 a task force officer with the ATF.

19 Q. And how long have you been with the Tuscaloosa Police  
20 Department?

21 A. A little over 19 years.

22 Q. And how long have you been a task force officer with  
23 ATF?

24 A. A little over six years, I believe.

25 Q. And your duties as a task force officer with the ATF,

1 what are your duties, actually?

2 A. Investigate gun crime, violent crime, some narcotics  
3 investigations.

4 Q. Okay. And are you one of the agents responsible or  
5 the lead agent responsible in the case regarding  
6 Sebastian Brown?

7 A. Yes, sir.

8 Q. Okay. Can you tell us a little bit about how that  
9 case came about?

10 A. Yes, sir. We received information through more than  
11 one source about Mr. Brown possibly being in possession of  
12 Glock switches or machine gun conversion devices. Through  
13 that, we conducted some surveillance at his residence on  
14 Northeast Green Grove Drive in Tuscaloosa. We observed a  
15 young man walking from a nearby house with a firearm in his  
16 waistband walk down towards Mr. Brown's house and made contact  
17 with Mr. Brown on the front porch. At that time, we went down  
18 to the residence down the hill to further our investigation  
19 and speak with Mr. Brown and the -- what turned out to be a  
20 juvenile and anybody else that may have been at the residence.

21 Q. Okay. And I want to back up just a little bit. You  
22 mentioned Glock switches and machine gun conversion devices.  
23 Can you elaborate on that just for the record as to what that  
24 is or what those are?

25 A. Yes, sir. It's a -- it's just a small device you can

1 attach to a Glock -- a Glock pistol that converts it to firing  
2 a fully automatic mode versus a single-shot semiautomatic  
3 mode.

4 Q. And would possessing such a device -- would that be  
5 outlawed without some further license?

6 A. Yes.

7 Q. Now, you indicated that there was a juvenile that you  
8 saw approaching Mr. Brown's house with a gun in his waistband.  
9 You also indicated he made contact with Mr. Brown?

10 A. Yes.

11 Q. Did you see this?

12 A. I did not, no.

13 Q. Did some of your ATF agents -- did they witness this  
14 contact between the two?

15 A. Yes, sir.

16 Q. And you indicated that after they made contact -- did  
17 they go inside the home? What did they do?

18 A. Yes, sir, they went inside the residence.

19 Q. Okay. And is that when you and the other ATF  
20 personnel went to the home?

21 A. Yes, sir.

22 Q. Okay. Can you tell us a little bit about when you-all  
23 went to the home? What did each of you do, if you can recall?

24 A. Agent Brantley, with the ATF, approached from the  
25 carport -- or approached the carport. There was a female in

1 the driveway area. He made contact with her, began speaking  
2 with her around the carport area. There was a strong odor of  
3 burning marijuana in the area. Myself and two ATF agents went  
4 to the west side of the house to observe the back yard based  
5 off of a previous incident that I was made aware of at the  
6 residence involving Mr. Brown.

7 Q. What was that previous incident you were made aware of  
8 and how were you made aware of it?

9 A. I was made aware of it through our conversation with  
10 one of the violent crimes investigators in Tuscaloosa. They  
11 had gone to the same residence on October 18th, a couple of  
12 weeks -- two or three weeks before, to speak to Mr. Brown.  
13 They believed him to be a witness in a shooting investigation  
14 that they were working on. When they went to the residence,  
15 Mr. Brown attempted to run out the back door, actually ran out  
16 the back door carrying an AR-style weapon. They made contact  
17 with him in the back yard, repeatedly told him to put the gun  
18 down. Eventually he did. He complied and he was detained.

19 That firearm turned out to be involved in an  
20 investigation that I had worked approximately a year before.  
21 It was a straw purchase, or lying and buying investigation. A  
22 firearm was part of that investigation. It just hadn't been  
23 recovered. And that's when I was made aware of it. The  
24 violent crime investigator contacted me and told me what had  
25 gone on and about the recovery of the firearm. So based off



1 that, that's what made us want to watch the back yard as we  
2 approached the residence because of his tendency to run out  
3 the back door.

4 Q. Okay. Well, let me stop you there, though. I just  
5 want to be clear. In that situation that you were made aware  
6 of, I guess, was that by other Tuscaloosa Police Department  
7 officials?

8 A. Made aware of that -- the incident?

9 Q. Yeah. Who -- was it other Tuscaloosa Police  
10 Department officials that told you about the October incident  
11 or was it other ATF officials that told you?

12 A. It was one of the Tuscaloosa violent crimes  
13 investigators. They're headquartered at the Tuscaloosa County  
14 Sheriff's Office.

15 Q. Okay. And just so the Court's aware, was Mr. Brown --  
16 do you have any knowledge as to whether he was actually  
17 arrested on that particular day?

18 A. I'm not aware if he was arrested or not.

19 Q. Okay. So just detained and the firearm was recovered?

20 A. Yes.

21 Q. Okay. Now, as a result of that knowledge, you  
22 indicated that on this particular occasion -- and let me be  
23 clear, this is November 7th --

24 A. Yes.

25 Q. -- 2023?

1 A. Yes.

2 Q. In November, you and several agents are moving towards  
3 the back yard and in anticipation of Mr. Brown possibly  
4 running again?

5 A. Yes, sir, just based off the information of him having  
6 run two or three weeks before, whenever law enforcement had  
7 arrived to speak with him.

8 Q. Okay. So when y'all get to the back yard, what, if  
9 anything, did you-all see?

10 A. We didn't quite make it to the back yard. There was a  
11 fence. One of the agents observed Mr. Brown standing near a  
12 shed in the back yard, and the juvenile that I had mentioned  
13 earlier was back there with him. The juvenile was holding a  
14 backpack. He handed the backpack to Mr. Brown. Mr. Brown, in  
15 turn, discarded it on the ground next to the shed.

16 Q. Now, did that backpack -- when you-all noted the  
17 juvenile earlier walking towards the house, did he have that  
18 backpack with him?

19 A. No, sir.

20 Q. Okay. So this backpack that y'all are observing is  
21 essentially something new that was not brought into the house  
22 by the juvenile, from what you-all witnessed?

23 A. Yes, sir.

24 Q. Okay. And you indicated that after the juvenile --  
25 after Mr. Brown got the backpack and set it down, what, if

1 anything, happened?

2 A. The two began to walk quickly towards the -- I guess  
3 the fence line, the back south or the west part of the yard.  
4 Their mannerisms, their quick motions, it appeared they were  
5 about to jump over the fence and flee. At that point I yelled  
6 to the both of them to stop and to come to me, and they both  
7 complied. They came to me and they were detained, and we  
8 continued our investigation.

9 Q. Okay. Other than the agents that were with you and  
10 Mr. Brown and the juvenile, were [sic] anyone else in the back  
11 yard?

12 A. In the back yard?

13 Q. At this time -- at this point in time when you were --  
14 when you told them to stop and approach you-all.

15 A. No, sir. Well, there was a Tuscaloosa police officer  
16 with us, but none of us actually went into the back yard at  
17 that point because there was a fence there. We were kind of  
18 stopped at the fence that kind of runs along the side of the  
19 house.

20 Q. And what kind of fence are we talking about?

21 A. A chain-link fence.

22 Q. Okay. All right. So nothing that really shelters  
23 your point of view?

24 A. No, sir.

25 Q. Okay. Now -- so, but other than law enforcement and

1 other than Mr. Brown and the juvenile, were there -- was there  
2 anybody else in the back yard at that point in time?

3 A. Not that we saw, no, sir.

4 Q. Okay. Once you had them approach y'all, what, if  
5 anything, did y'all do?

6 A. We detained them, began speaking with them. Some of  
7 the other ATF agents made contact with Mr. Brown's mother,  
8 began explaining our reason for being there, and we continued  
9 our investigation.

10 Q. Okay. At any point did any of the agents walk over  
11 near the backpack?

12 A. Yes.

13 Q. Okay. Do you have -- do you recall who those agents  
14 were?

15 A. It was Agent Chris Brantley and Agent John Pearson  
16 (phonetic) with the ATF.

17 Q. When they approached the backpack, what, if anything,  
18 did they see?

19 A. The backpack was -- based on my conversations with  
20 them, the backpack was slightly open on the top. They were  
21 able to see into it and see that it contained -- there was a  
22 container with what appeared to be a large amount of marijuana  
23 in the back -- in the container.

24 Q. Okay. And you said the backpack was inside of the  
25 shed? Or where was it located?

1       A. It was next to the shed on the -- I guess the opposite  
2 side of the shed as the house -- or opposite side of the house  
3 is -- if that makes any sense.

4       Q. Okay. So it was on the -- the shed was between the  
5 house and the backpack?

6       A. Yes, sir.

7       Q. Okay. And prior to continuing an investigation, did  
8 anyone get permission from any of the homeowners to search?

9       A. Yes, sir. Agent Brantley and Agent Pearson spoke with  
10 Mr. Brown's mother and obtained consent to search the shed and  
11 the area around it.

12       Q. Okay. All right. Do you recall what, if anything,  
13 was found inside the backpack?

14       A. Yes. There was -- it was packaged in several  
15 different ways, but --approximately 642 grams of marijuana.  
16 There were four firearms in the bag and --

17       Q. What types of firearms?

18       A. There were two Glocks equipped -- two Glock pistols  
19 equipped with the machine gun conversion devices, the  
20 switches. There was a third Glock that was not, and there was  
21 a -- I believe it was a revolver.

22       Q. Okay. So out of the four firearms, two of them had  
23 the machine gun conversion devices, or Glock switches, on  
24 them?

25       A. Yes.

1 Q. And then the other firearm that was capable of having  
2 one did not?

3 A. Yes, sir.

4 Q. And then you said that there was a revolver?

5 A. Yes, sir.

6 Q. Okay. Do you recall if any of these firearms were  
7 loaded?

8 A. Right off, no, sir, I don't.

9 Q. Okay. Do you recall what, if anything, was found in  
10 the shed right there by the two individuals?

11 A. There was a fifth firearm found in the shed. It was  
12 what they call a Polymer80 firearm. There was drug  
13 paraphernalia found inside the shed and a couple of cell  
14 phones, I believe.

15 Q. Okay. Now, were any examinations or tests done on any  
16 of the firearms found in the backpack?

17 A. Yes, sir.

18 Q. Okay. And what were those examinations or tests, that  
19 you're aware of?

20 A. They were -- the firearms were tested for their  
21 functionality, as far as them being machine guns, with the ATF  
22 firearms enforcement officer, and they were -- the shell  
23 casings from the two firearms with the MCVs, the Glock  
24 switches attached, the shell casings were entered into the  
25 NIBIN system.

1 Q. Okay. Now, as far as the testing of the guns to  
2 determine whether they were actually machine guns or not, do  
3 you know if there was a successful test and if the guns were  
4 determined to be machine guns?

5 A. The -- the wording on the report is very lengthy, but  
6 the devices themselves were determined to be machine guns.

7 Q. Okay. The Glock switch devices themselves?

8 A. Yes, sir.

9 Q. Okay. Now, as far as -- you indicated that two of the  
10 shell casings were sent to NIBIN. Can you just briefly tell  
11 us what NIBIN is or what it does?

12 A. It's -- I'm not an expert on NIBIN, but it's the  
13 National Integrated Ballistics Information Network. It's a  
14 national database that -- where the -- where ballistics  
15 information derived from recovered evidence and also firearms  
16 is entered to kind of give a national access to that  
17 information.

18 Q. Okay. And as it relates to the two shell casings, did  
19 you get any kind of report back as they're -- as it relates to  
20 NIBIN?

21 A. Yes, sir. I guess somewhere around February 29th I  
22 learned about a -- there was a -- what they call a NIBIN lead  
23 generated from -- it's based off my conversation with the  
24 gentleman who did the test -- a NIBIN lead was generated from  
25 one of the firearms that was recovered that had the attached

1 machine gun conversion device.

2 Q. And as, I guess, a NIBIN lead, is that something  
3 telling us that that gun either was or may have been, I guess,  
4 a participant in other criminal activity?

5 A. Yes, sir. It's more -- I'm sorry. It's more the may  
6 have been thing he said. There's a lead which points you in a  
7 direction, and then once further microscopy is done, they can  
8 actually verify for sure.

9 Q. Okay. And, of course, that would be done by some type  
10 of toolmarks expert; correct?

11 A. Yes, sir.

12 Q. Do you have any information as to -- or any  
13 information right now as to the crime that it related back to?

14 A. Yes, sir. It was a shooting.

15 Q. Okay. And do you know if that was the gun that was  
16 found inside of the shed or one of the guns that were found  
17 inside of the backpack?

18 A. It was one of the ones that was in the backpack.

19 Q. And the marijuana that was found in the backpack, was  
20 it sent off for testing?

21 A. It was, yes, sir.

22 Q. And was there ever a result from it?

23 A. Yes, sir.

24 Q. Okay. And what were the results?

25 A. It was positive for marijuana.



1 Q. Was there anything else either in the backpack or in  
2 the shed that would be indicative of selling or distributing  
3 marijuana?

4 A. Yes, sir. I believe I mentioned there was drug  
5 paraphernalia found in the shed. Specifically -- or more  
6 specifically, there was a set of digital scales sitting in the  
7 shed with a plastic cup on top of it. It's a -- it's  
8 something used very commonly by people who sell marijuana to  
9 weigh their marijuana. They'll put it in a cup or some other  
10 type of container so that it isn't spilling out all over the  
11 place because it's, you know, fine, it can be fine. You put  
12 it in the cup and weigh it in the cup versus letting it spill  
13 everywhere.

14 Q. And one final question. As to when you-all initially  
15 located Mr. Brown and the juvenile in the back yard, were they  
16 near the shed when y'all initially saw them?

17 A. Yes, sir. Based off my conversation from one of the  
18 agents that saw them, Mr. Hikes (phonetic) was standing -- or  
19 excuse me -- the juvenile was standing near the open door of  
20 the shed. Mr. Brown was standing nearby. The juvenile handed  
21 the backpack to Mr. Brown.

22 MR. MCCOMB: I have no further questions at this time,  
23 Your Honor.

24 Your Honor, may I ask just one more question?

25 THE COURT: You may.

1 Q. (By Mr. McComb) The individual that you are referring  
2 to as Mr. Brown and that you-all saw in the back yard, is he  
3 in court today?

4 A. Yes.

5 Q. Can you point him out and tell the Court what he's  
6 wearing?

7 A. Yes, sir. He's at the table right there wearing the  
8 red clothing.

9 MR. MCCOMB: Okay. May the record reflect that the  
10 witness has identified the defendant.

11 THE COURT: It will reflect.

12 CROSS-EXAMINATION

13 BY MS. ROBERTSON:

14 Q. Good morning, Officer Olvey.

15 A. How are you?

16 Q. I am well.

17 Officer Olvey, did you testify before the grand jury  
18 regarding this incident?

19 A. Yes, sir. Or excuse me. Yes, ma'am.

20 MS. ROBINSON: All right. Your Honor, we would make a  
21 Jenks demand for the transcript of that testimony at this  
22 time.

23 THE COURT: Sounds like they don't have it yet.

24 MR. MCCOMB: We don't have it yet, Your Honor.

25 MS. ROBERTSON: Your Honor, we'll proceed forward

1 today, but we're entitled to it at the time that he testifies  
2 and would expect to receive it in short order and will bring  
3 it to the Court's attention if anything is relevant to what is  
4 testified to today.

5 THE COURT: Hang on one second.

6 Continue.

7 Q. (By Ms. Robinson) Officer, you didn't have a warrant  
8 for Mr. Brown's arrest on November 7th?

9 A. No, ma'am.

10 Q. And you didn't have a warrant to search the house on  
11 November 7th?

12 A. No, ma'am.

13 Q. And you didn't have a warrant to search the back yard  
14 on November 7th?

15 A. No, ma'am.

16 Q. And you didn't have a warrant to search the shed on  
17 November 7th?

18 A. No, ma'am.

19 Q. Okay. So let's talk a little bit about the layout of  
20 this residence. I believe you referred to being on the west  
21 side of the house, but let's just talk about staring at the  
22 house as if you're standing on the street looking at the front  
23 of the building. So if you're looking at the residence, you  
24 referred to a carport. That carport is on the left side of  
25 the house; correct?

1 A. Yes.

2 Q. And the yard that you're describing standing in  
3 looking into the back yard, that's on the right side of the  
4 house; correct?

5 A. The yard is behind the house --

6 Q. Uh-huh.

7 A. -- the back yard.

8 Q. The back yard. But you said you went and you were  
9 going towards the back yard and you couldn't go any further  
10 because there was a fence that obstructed the route.

11 A. Yes.

12 Q. That's on the right side of the house; correct?

13 A. Yes.

14 Q. And the house has a front door?

15 A. Yes.

16 Q. You didn't go to the front door to go into the back  
17 yard?

18 A. No, ma'am.

19 Q. No. You didn't -- and this yard that is on the right  
20 side of the house, that is not the route that the postman  
21 would take if he were arriving at the house with a package?

22 A. No, ma'am.

23 Q. No. He would go to the front door; right?

24 A. I can't speak for him, but most likely.

25 Q. There's not a door -- there's not a -- where you were

1 standing on the right side of the house by that fence, there  
2 was no door into the house at that location; correct?

3 A. I don't believe so.

4 Q. Okay. There is a door into the house that's inside of  
5 the carport; correct?

6 A. Yes.

7 Q. And then there's the front door?

8 A. Yes.

9 Q. But you were not at either of those locations?

10 A. No.

11 Q. You were standing in the yard on the right side of the  
12 house looking into the back yard?

13 A. Yes.

14 Q. And you did not have a warrant to be in that position?

15 A. No, ma'am.

16 Q. Okay. Now, you spoke about Mr. Brown coming to your  
17 attention in October of 2023. He was not charged with  
18 anything related to that incident?

19 A. No, ma'am.

20 Q. No arrest warrant was obtained for him based on that  
21 incident?

22 A. No, ma'am.

23 Q. No one went and tried to get a search warrant for the  
24 residence based on the incident?

25 A. No, ma'am.

1 Q. Okay. So y'all just set up surveillance at the house;  
2 right?

3 A. Yes, ma'am.

4 Q. You mentioned there was a juvenile in the back yard  
5 who had a firearm on his person.

6 A. Yes.

7 Q. Can you tell me which of these firearms was the one  
8 that was on the juvenile?

9 A. I don't know.

10 Q. Okay. Do you know -- what color was that gun?

11 A. I don't know.

12 Q. What size was that gun?

13 A. I don't know.

14 Q. Where on his person was it?

15 A. In his waistband.

16 Q. In his waistband. What was he dressed in that day?

17 A. I don't recall.

18 Q. So this is November. Was he wearing a jacket?

19 A. I didn't initially see him when he walked to the  
20 residence. I was a few blocks away in a different position.

21 Q. Who saw him?

22 A. It would have been Agent Brantley and a couple of  
23 other ATF personnel.

24 Q. Did they memorialize anywhere what he was wearing?

25 A. Not to my knowledge.

1 Q. Did you have a pole cam set up to observe the back  
2 yard?

3 A. No, ma'am.

4 Q. Did you have a pole cam set up anywhere to observe the  
5 residence?

6 A. No, ma'am.

7 Q. How many officers were there that day?

8 A. Would have been five or six.

9 Q. Okay. And so when you approached the house and  
10 someone was speaking with his mother and people were on the  
11 side of the building, how many officers or anyone affiliated  
12 with law enforcement was on the premises at that time?

13 A. It would have been five or six.

14 Q. How many vehicles were near the property at that time?

15 A. Should have been three.

16 Q. Okay. So you said that you went to the side of the  
17 house and you're standing in the side yard looking over the  
18 fence into the back yard. Is that the point at which you  
19 could see the shed?

20 A. I didn't -- I personally didn't observe the shed. I  
21 didn't make it far enough into the -- I didn't get close  
22 enough to the fence to have actually observed the back yard.  
23 The other two agents, Agent Joel Smith and John Pearson,  
24 approached the fence before I did.

25 Q. Uh-huh.

1       A.   And at that point Agent Pearson indicated that he was  
2   -- he was watching them and --

3       Q.   Okay.  And, so, to be clear, you could not see into  
4   the back yard until you were standing on the side of the  
5   house?

6       A.   No.

7       Q.   Okay.  And -- nor see into the shed until you were  
8   standing on the side of the house?

9       A.   No.

10      Q.   Okay.  So I believe that you testified that -- and  
11   let's -- and you also didn't have a warrant for the juvenile?

12      A.   No.

13      Q.   You didn't have a warrant for anyone on the premises?

14      A.   No, ma'am.

15      Q.   Okay.  So you instruct Mr. Brown and the juvenile to  
16   come over to you, to basically walk towards the law  
17   enforcement that are standing in the side yard?

18      A.   Yes.

19      Q.   Okay.  And then you put handcuffs on them?

20      A.   Yes.

21      Q.   And then you called the juvenile's mother -- or  
22   guardian?

23      A.   We did not speak with her, to my knowledge.  I didn't.  
24   Someone else may have.

25      Q.   Now, you testified that you identified this individual



1 as a juvenile, armed juvenile, walking into the back yard. So  
2 you knew when you saw this individual walk into the back yard  
3 that this was a juvenile?

4 A. No.

5 Q. So at the time that he went into the back yard, you  
6 just knew it was an individual that had a firearm in his  
7 waistband?

8 A. This -- this was an evolving situation. At the time,  
9 I didn't know it was a juvenile. I just knew it was a  
10 gentleman that approached the house from a residence up the  
11 street who had a firearm in his waistband. Over the next  
12 several minutes, it was determined that he had just gotten off  
13 the school bus -- or I was made aware that he had just gotten  
14 off a school bus, which indicated he was a juvenile, plus  
15 through speaking with him for a few moments, I learned he was  
16 a juvenile.

17 Q. So did you or any other officer on the scene know he  
18 was a juvenile before he was placed in handcuffs?

19 A. The fact that he got off a school bus was a strong  
20 indicator, but, I mean, an 18-year-old can still be in school.  
21 Just -- other than that, no.

22 Q. And is it lawful in the state of Alabama for an  
23 18-year-old to have a firearm?

24 A. No.

25 Q. No?

1 A. Oh, actually, yes.

2 Q. Yes. So an 18-year-old can have a firearm in the  
3 state of Alabama --

4 A. Yes.

5 Q. -- correct? And no longer needs a permit to carry or  
6 anything along those lines?

7 A. No.

8 Q. And that was the case in November?

9 A. Yes.

10 Q. Okay. And so I believe you said that Mr. Brown and  
11 this juvenile were both fully compliant when they were ordered  
12 to come over and speak to law enforcement?

13 A. Yes.

14 Q. And then they were placed in handcuffs?

15 A. Yes.

16 Q. And they were sat on the front porch?

17 A. Yes.

18 Q. And then you and your colleagues began speaking with  
19 them?

20 A. Yes.

21 Q. And they were read Miranda?

22 A. They were, yes, ma'am.

23 Q. Okay. So they were advised that they didn't have to  
24 talk to you?

25 A. Yes.

1 Q. And that they could have an attorney present?

2 A. Yes.

3 Q. And you don't remember at any point the juvenile's  
4 mother being called or some guardian being called?

5 A. I don't. I didn't call her. I'm not aware of her  
6 being called.

7 Q. Okay. Did everyone cease trying to talk to this  
8 juvenile when they realized that he was under age and did not  
9 have a guardian present?

10 A. No, he has the right to request a guardian.

11 Q. Uh-huh. Did you tell him that?

12 A. That's part of our juvenile Miranda.

13 Q. Okay. So did you give him juvenile Miranda?

14 A. Specifically, I can look at my report. I don't  
15 remember if I'm the one that read it or if someone else did.

16 Q. Do you remember giving this individual juvenile  
17 Miranda?

18 A. I don't remember giving him, specifically me, no.

19 Q. Do you remember one of your colleagues giving him  
20 juvenile Miranda?

21 A. No.

22 Q. Okay. So you have Mr. Brown and this juvenile  
23 handcuffed, sitting on the side porch; right?

24 A. Yes.

25 Q. And this is after, it sounds like, two or more

1 officers have gone up into the yard on the side of the house  
2 away from any natural approach or egress from the house;  
3 correct?

4 A. Yes, ma'am.

5 Q. We're all clustered in the side yard?

6 A. Say that one more time. I'm sorry.

7 Q. You've got two more officers who have walked onto the  
8 property, no warrant, and are standing on the side of the  
9 house in the yard?

10 A. Yes, ma'am.

11 Q. Nowhere near the front door?

12 A. Yes.

13 Q. Nowhere near the door that's in the carport?

14 A. Yes, ma'am.

15 Q. Clear on the other side of the house from the carport?

16 A. Yes, ma'am.

17 Q. Okay. So these two individuals are sitting cuffed on  
18 the front porch. Is that at the point at which you asked  
19 Mr. Brown's mother for consent to look into the back yard?

20 A. I didn't personally ask. It was either Agent Pearson  
21 or Agent Brantley.

22 Q. But that occurred after these two individuals are  
23 handcuffed on the front porch?

24 A. Yes, ma'am. They were handcuffed pretty quickly.

25 Q. And was -- and Mr. Brown's mother was told, I presume,

1 that you would go and get a warrant if she did not cooperate?

2 A. I'm unsure how that conversation -- I wasn't present  
3 when they spoke with her.

4 Q. Okay. But they told you, We have permission to go  
5 into the back yard?

6 A. Through our conversation, that's what I learned. Like  
7 I said, I wasn't present.

8 Q. So who was it that got this permission?

9 A. It would have either been Agent Brantley or Agent  
10 Pearson.

11 Q. Okay. And did they -- did Mr. Brown's mother  
12 accompany them into the back yard?

13 A. Yes.

14 Q. Was she permitted to watch everything that they were  
15 doing?

16 A. I wasn't back there, so I don't --

17 Q. So you didn't actually participate in the search?

18 A. No, ma'am.

19 Q. So you can't speak to the presence of the backpack or  
20 whether -- you didn't see whether the backpack was open?

21 A. No, ma'am. That was all basically my conversations  
22 with Agent Brantley and Agent Pearson.

23 Q. Okay. And we've talked a lot about marijuana, but  
24 we're -- that is the drug of concern in this case; correct?

25 A. Yes.

1 Q. You talked about the shell casings that were sent to  
2 NIBIN; correct?

3 A. Yes.

4 Q. Okay. So we don't know whether those shell casings  
5 were -- we don't know whether those shell casings came from  
6 the gun that had been on the juvenile?

7 A. I do not know, no, ma'am.

8 Q. Okay. Because we don't know which gun the juvenile  
9 had?

10 A. No, ma'am, we don't know.

11 Q. Were fingerprints recovered from the shell casings?

12 A. No, ma'am.

13 Q. When did that shooting occur?

14 A. That was April of last year.

15 Q. April of 2023?

16 A. Yes, ma'am.

17 Q. Do you know whether the firearms were fingerprinted?

18 A. I can check. I don't recall in this specific case.  
19 They were not, to my knowledge.

20 Q. Okay. Now, you're the lead agent on this  
21 investigation?

22 A. Yes, ma'am.

23 Q. So you're aware that Mr. Brown was approached with a  
24 target letter?

25 A. He was not specifically.

1 Q. You're aware that a target letter was prepared for  
2 Mr. Brown?

3 A. Yes, ma'am.

4 Q. And that it was given to his mother?

5 A. Yes, ma'am.

6 Q. Are you the agent that gave it to his mother?

7 A. I am, yes, ma'am.

8 Q. Okay. And you told his mother that the ATF was hoping  
9 to -- or some agency was hoping to speak with her son?

10 A. Yes.

11 Q. And that was -- you were -- so you were fully aware  
12 that this case was being approached as a target case as of  
13 January of this year?

14 A. After having not heard anything from Mr. Brown, that  
15 was off our table.

16 Q. Okay. But you're aware that Mr. Brown had the right  
17 not to say anything; right?

18 A. Yes.

19 Q. And you're aware that he had the right to decide  
20 whether to talk with the advice of counsel; right?

21 A. Yes.

22 Q. And after the target letter was received, the  
23 paperwork was actually submitted seeking appointment of  
24 counsel; right?

25 A. I wasn't aware of any of that, no, ma'am.

1 Q. So you did not know that counsel had been appointed to  
2 Mr. Brown?

3 A. I don't believe so.

4 Q. So no one notified you that the financial paperwork  
5 had been submitted to the Court and that counsel had been  
6 appointed to Mr. Brown?

7 A. Not that I recall. I don't -- if I was made aware of  
8 that, it was through some passing conversation. It's not  
9 anything that I -- that I noted.

10 Q. Okay. So -- but you delivered the target letter to  
11 Mr. Brown's mother?

12 A. Yes.

13 Q. On the hope that Mr. Brown would cooperate and sit  
14 down and talk with law enforcement?

15 A. Yes, ma'am.

16 Q. And you knew that that letter was accompanied by a  
17 financial affidavit that could be completed, submitted to the  
18 Court for the appointment of counsel?

19 A. Yes.

20 Q. But you did nothing to follow up to determine whether  
21 counsel had been appointed or whether there was any  
22 opportunity to sit down and speak with Mr. Brown?

23 A. Once I delivered the target letter, it was just kind  
24 of like a waiting game, just wait until you hear from the  
25 prosecutor's office or your office. I heard nothing from



1 either.

2 Q. Okay. But you also didn't ask; right?

3 A. I think we had some conversations about it. Hadn't --  
4 I don't -- I don't recall how they went, but --

5 Q. Okay. But you don't recall, during those  
6 conversations, it being noted that counsel had been appointed?

7 A. I don't recall being told that specifically, no.

8 MS. ROBERTSON: Your Honor, if I could have one  
9 moment.

10 Q. (By Ms. Robinson) Actually one -- last couple  
11 questions, Officer. Were you present when Mr. Brown was  
12 arrested last week?

13 A. Yes.

14 Q. And so it's my -- am I correct that law enforcement  
15 approached the same house where he -- this investigation had  
16 played out back in November?

17 A. Yes, ma'am.

18 Q. And he was ordered to come out?

19 A. Yes, ma'am.

20 Q. And he complied with that instruction?

21 A. He did, yes, ma'am.

22 Q. He didn't try to run?

23 A. No, ma'am.

24 Q. He was taken into custody without incident?

25 A. Yes, ma'am.

1 MS. ROBINSON: Okay. Your Honor, no further  
2 questions.

3 MR. MCCOMB: I just have some follow-up questions,  
4 Your Honor.

5 REDIRECT EXAMINATION

6 BY MR. MCCOMB:

7 Q. And this is in relation to the guns that were found in  
8 the backpack. Do you recall if there was any of the firearms  
9 with distinctive markings or coloring in the backpack?

10 A. Yes.

11 Q. Okay. Can you tell me a little bit about that?

12 A. In the backpack there were three Glock pistols. One  
13 had a brown or goldish-colored slide at the top part of the  
14 firearm, and there was a -- one with some blue accents to it.  
15 I don't know if it was paint or something but it had some blue  
16 coloring on it.

17 Q. Okay. And in the course of your investigation, did  
18 you review either photographs from an electronic device or  
19 from a social media device -- or from social media?

20 A. Yes.

21 Q. And in reviewing those photographs, did you come  
22 across Sebastian Brown --

23 A. Yes.

24 Q. -- in any of those photographs or videos?

25 A. Yes.

1 Q. Okay. Can you tell us a little bit about those?

2 A. Yes. In those -- there was a photograph of several  
3 individuals holding firearms that were equipped with Glock  
4 switches, or machine gun conversion devices. Brown was one of  
5 those individuals. One of the firearms that he was holding  
6 was similar to one of the ones that were recovered from the  
7 backpack.

8 Q. What do you mean when you say "similar"? How was it  
9 similar?

10 A. Sir?

11 Q. How was it similar?

12 A. They looked the same, but this is a photograph. I  
13 can't say it's the same one.

14 Q. Do you recall if this was the one with the brown/tan  
15 slide that you indicated or the blue pistol, or do you  
16 remember right offhand?

17 A. I don't remember right offhand.

18 Q. Okay. But in that photograph that you're referring  
19 to, does -- do the weapons that he's holding -- do they  
20 contain machine gun conversion devices?

21 A. Yes.

22 Q. Okay. Is that the only photograph that you have of  
23 Mr. Brown holding a machine gun conversion device?

24 A. There was more than one. There was -- there was a  
25 couple of videos also.

1 Q. Okay.

2 A. It's the only photograph I recall.

3 Q. Okay. Were the videos -- are they showing  
4 substantially the same thing?

5 A. Yes.

6 Q. You indicated, as far as the fence and what you could  
7 see -- did any of the agents -- either you or the agents there  
8 climb over the fence before y'all were given permission to  
9 climb over the fence?

10 A. I didn't. I don't know that anyone -- I don't believe  
11 anyone else did. It was -- I yelled at them to come towards  
12 us. I didn't want to go over the fence.

13 MR. MCCOMB: I have no other questions, Your Honor.

14 THE COURT: Miss Robertson?

15 RECROSS-EXAMINATION

16 BY MS. ROBERTSON:

17 Q. The social media material that you were just referring  
18 to, when were those images taken?

19 A. I don't know the exact dates.

20 Q. When were they posted?

21 A. I don't have that information in front of me.

22 Q. When did you see them?

23 A. I saw them in -- would have been late November -- or  
24 excuse me -- late October of last year.

25 Q. On whose page?

1 A. A gentleman by the name of Markeias Thompson.

2 MS. ROBERTSON: No further questions, Your Honor.

3 THE COURT: Thank you.

4 Mr. McCombs?

5 MR. MCCOMB: No, nothing further, Your Honor.

6 THE COURT: You may step down, sir.

7 Mr. McCombs, more evidence or just argument?

8 MR. MCCOMB: Just arguments, Your Honor.

9 THE COURT: Let's take a two-minute break before  
10 argument. We'll be in recess. Off the record.

11 (Recess taken from 11:17 a.m. to 11:25 a.m.)

12 THE COURT: Let's go back on. Mr. McCombs, let's stay  
13 with you for argument. Miss Robertson has given me a lot to  
14 think about, given you a lot to think about. But bring us  
15 back to risk of danger. As we've said, I don't think we're on  
16 risk of flight.

17 MR. MCCOMB: Yes, Your Honor. Specifically as to the  
18 risk of danger, as you've heard Detective, or Investigator,  
19 Olvey testify to, that there has been at least two different  
20 interactions with law enforcement with this individual, with  
21 Mr. Brown, in the October-November time frame of 2023. In one  
22 of those interactions officers were approaching his home  
23 simply to ask him or to interview him as a witness in a  
24 shooting and he ends up running out the back door with an AR  
25 rifle. He is caught with that rifle. The rifle is recovered.

1 It is from a prior criminal investigation as regards to -- it  
2 was somehow bought under false pretenses by certain other  
3 individuals. But it also came back to a prior shooting, that  
4 particular rifle that was in his hands.

5 And in this situation in November of 2023, he is in  
6 constructive possession of four more handguns, two of which  
7 have machine gun conversion devices, one of which comes back  
8 to yet another shooting. Now -- and this is all firearms that  
9 were possessed or constructively possessed by Mr. Brown, and  
10 all activity seemingly that he is aware of and possibly, the  
11 inference would be, participating in. So that in and of  
12 itself begs the question of his danger to the community, being  
13 found in possession of at least five guns on two separate  
14 occasions, and that's not counting the pistol that was in the  
15 shed that we do not attribute to Mr. Brown in our charging.

16 We are -- the Government is certainly worried that if  
17 Mr. Brown is allowed to go to live -- reside with his sister  
18 that for much of the day -- she's obviously a very hard worker  
19 and she's not going to be in the home for much of the day and  
20 there's going to be very little supervision on Mr. Brown and  
21 on, frankly, his travels. There's very little impediment to  
22 his ability to travel, that we've -- from what we gather.

23 THE COURT: What about electronic monitoring on that?

24 MR. MCCOMB: Electronic monitoring -- if released,  
25 electronic monitoring would be great, but he only has to break

1 it one time to return back to Tuscaloosa before -- and maybe  
2 acquire or reacquire any set of firearms and be involved in  
3 any activity back in his home in the city of Tuscaloosa. You  
4 know, we'll get notice that he broke his curfew but that'll be  
5 the end of it. And the Government is worried, frankly, about  
6 his ability to reacquire firearms from individuals and friends  
7 in Tuscaloosa and his ability to travel.

8 And just as an aside, Your Honor, when the ATF  
9 requested that a target letter be sent and was sent, you know,  
10 based on my conversations with Miss Robertson and his defense  
11 counsel, they didn't find him. They had no idea where he was  
12 and they were still looking. My last conversation with them  
13 was, you know, several weeks before the indictment that he was  
14 yet unfound, so the assumption was that he was not  
15 cooperating. The assumption was that -- you know, that he did  
16 not want to cooperate, so we moved forward with an indictment  
17 without knowing or being told that there was any kind of  
18 communication between his defense counsel and himself in  
19 regards to any possible cooperation.

20 THE COURT: Well, Miss Robertson tells a very  
21 different story.

22 MR. MCCOMB: Yeah. But the story -- the only story I  
23 have is that if she had been speaking with him, that was news  
24 to us before the indictment, okay? We had no idea that he was  
25 found and spoken with by defense counsel. I do not doubt that

1 that was happening, certainly, but we had no knowledge of  
2 that, none, neither myself, my office, or the ATF agents that  
3 were involved in the case, which is why the indictment was  
4 moved forward with.

5 But going back to just basically his danger, Your  
6 Honor, again, just to reiterate, he does have some prior  
7 adjudications that has been discussed previously, and  
8 regardless of those adjudications, and like his sister has  
9 testified on the stand, even served some time. And regardless  
10 of that, he is still possessing a fairly large quantity of  
11 firearms for an 18-, 19-year-old man, particularly when those  
12 firearms always seem to come back to a dangerous encounter, a  
13 shooting or something of that nature. And I think it's  
14 because of that I don't think there's any way we can  
15 reasonably -- reasonably entertain the safety of the community  
16 unless he is held pretrial.

17 THE COURT: You say always comes back to an incident.  
18 Two of five.

19 MR. MCCOMB: Two of the five, that's correct.

20 THE COURT: Or a lead on two of the five?

21 MR. MCCOMB: That's correct.

22 THE COURT: Thank you.

23 Miss Robertson?

24 MS. ROBERTSON: Your Honor, just --

25 THE COURT: Mr. McCombs, do you have something to add?



1 Or I can come back to you.

2 MR. MCCOMB: I just wanted to clarify, the agent just  
3 clarified for me there was only a NIIBIN lead on one and that  
4 was one of the firearms found in the backpack. The AR was  
5 just found to be related to an earlier shooting, as far as we  
6 are aware of.

7 THE COURT: Thank you.

8 Sorry, Miss Robertson. Go ahead.

9 MS. ROBERTSON: Yes. Sorry, Your Honor. I didn't  
10 mean to speak over you.

11 As regards -- in regards to those allegations, Your  
12 Honor, it sounds like one of those shootings took place in  
13 April -- I'm not going to -- seven months -- math on my feet  
14 is not my skill -- but, Your Honor, sometime before it was  
15 recovered from Mr. Brown's property, and I believe the  
16 testimony was that there would need to be some follow-up  
17 ballistic work done. So in the incident regarding the AR, I  
18 don't know that the temporal relation between the recovery of  
19 the gun and the allegations -- there's a lot -- I think we're  
20 being asked to do a lot of connecting the dots here in a  
21 situation where I certainly don't have that paperwork and  
22 can't speak to it, Your Honor, but if we were in front of a  
23 jury, I would have -- take issue with a lot of the speculation  
24 on that front.

25 Your Honor, to be clear, my office, I, Mr. Brown take

1 no issue with how the case was pursued. As I said before, it  
2 is certainly within the Government's, you know, prerogative to  
3 go ahead and indict a defendant at any time. They were under  
4 no obligation to follow up with my office, and I certainly  
5 know that on any future target letter I have with Mr. McComb,  
6 I will be more proactive with my conversation with him and  
7 with my client. I've looked back over my file and not that,  
8 you know, our -- I believe my first communication with  
9 Mr. McComb was back in mid-January when I said, Hey, I'm going  
10 to be taking this case; you know, any discovery you can  
11 provide, any information? I was in touch -- my office was in  
12 touch with Mr. Brown's mother. Less than a week later I had  
13 my first phone call and meeting with him in late January. So  
14 at no point in time do I recall saying I can't find him. I  
15 had been quite successful in finding him and sitting down and  
16 meeting with him and traveling to Tuscaloosa to do so.  
17 Because I was not under the impression that there was any time  
18 pressure and because I hadn't received discovery and needed to  
19 do my due diligence in trying to get some idea how the case  
20 might proceed, it was simply taking my office more time. I  
21 mean, if I get something in mid-January, I understand their  
22 right to indict at the end of February, but I wasn't in a  
23 position to return to the Government because our investigation  
24 was ongoing to decide and advise Mr. Brown about the best  
25 course.

1 All to say, Your Honor, from at least mid-January,  
2 Mr. Brown has been well aware that the feds were investigating  
3 him. The target letter spells out quite clearly that he is  
4 the target of a federal investigation and potentially could be  
5 charged federally. I appreciate the Court's finding that  
6 flight is not an issue here but, Your Honor, the Government  
7 saw fit and the agent saw fit to approach Mr. Brown on a  
8 target letter knowing that he was taken -- knowing about what  
9 happened in October, knowing about what happened in November.  
10 If they saw him as being such a huge danger at that time, they  
11 could have indicted him sooner or brought him in on a  
12 complaint and, rather, they approached him with a target  
13 letter which went a step further than just letting an  
14 individual remain in the community while an investigation  
15 plays out and while ballistics testing is done or marijuana  
16 testing is done. And I know you can only bring the case to  
17 the grand jury once you have sufficient evidence. Oftentimes  
18 that happens and an individual stays in the community and the  
19 Government comes in and says, Well, we think they're dangerous  
20 or there may be a risk of flight now because now they're aware  
21 of these charges. Mr. Brown has been aware of this potential  
22 exposure since January, since his mother received that target  
23 letter. And if he was that much -- if he is such a  
24 sufficiently dangerous person now, you know, presumably that  
25 would have also been the case in January when they elected to

1 go and try to approach him in that way.

2           Your Honor, we have proposed that Mr. Brown reside in  
3 a different county with a different family member. Any  
4 defendant can cut off electronic home monitoring, but Mr.  
5 Brown has been compliant with law enforcement. He was  
6 compliant in November when they instructed him to walk over  
7 and sit handcuffed while that search was underway. He was  
8 compliant when he received a target letter and has been  
9 communicating with my office. He was compliant when they  
10 showed up last week and ordered him to come out and to be  
11 arrested on this indictment. He has demonstrated compliance  
12 with court order.

13           There's nothing in the pretrial services report to  
14 suggest that he has failed in his obligations to the state  
15 court, and he has been on state -- it appears he's been on  
16 bond in the state since November of last year. He was  
17 released on bond on November 8th in 2023. There is no  
18 suggestion that in the time that has lapsed since then that he  
19 has violated the state court bond or that he failed to appear.

20           So, Your Honor, I simply think that the suggestion  
21 that we need to worry about Mr. Brown cutting off an ankle  
22 monitor, getting ahold of a car to drive to Tuscaloosa to  
23 somehow get ahold of a gun is just too speculative to warrant  
24 detaining him at this time when we have a proposed residence  
25 with a suitable third-party custodian in a different county

1 where Mr. Brown has been thus far compliant with everything  
2 that's been presented to him.

3 And while I understand that these charges are very  
4 serious and that they -- that there are concerns here, I think  
5 that those concerns are addressed by the appointment of a  
6 third-party custodian who has already said that she'll be  
7 trying to get Mr. Brown a job. And so the idea that he's  
8 going to be sitting at home twiddling his hot thumbs is not a  
9 certain outcome, but we have a third-party custodian and a  
10 proposal for electronic home monitoring. And those are, in  
11 fact, greater restrictions than he's been subjected to on the  
12 state court bond and should go a long way to ensure the Court  
13 that he will abide by the Court's directives and follow any  
14 conditions that are placed upon him if released on bond, Your  
15 Honor.

16 THE COURT: Thank you.

17 Mr. McComb -- and I apologize if I said "McCombs"  
18 before. Mr. McComb, again, Miss Robertson makes a lot of good  
19 points and makes a really good case for release. So why isn't  
20 all of that enough for reasonable assurance: different  
21 county, third-party custodian, electronic monitoring, curfew,  
22 home detention, and so forth? Because we've been through the  
23 charges and the statutory presumption and we have the separate  
24 incident. We have the connections to the crimes. And so I  
25 hear a lot of what you're saying, but help me see it all the

1 way.

2 MR. MCCOMB: My last concern is simply with the  
3 third-party custodian and with putting him as a named  
4 individual on the lease, you know. We're not even sure that  
5 that's going to be able to be done. There's been nothing  
6 presented to the Court that that can be done or will be done.  
7 And I think the probation office has supplied the Court and  
8 defense counsel and myself with a notation essentially saying  
9 that a background check must be run or will be run by that  
10 apartment or that's their general practice. And we've been  
11 given no assurances that he will be able to be there, be  
12 present there. And I think, absent that, I still have some  
13 hard questions as to whether he can be released, because, you  
14 know, I know his sister wants to take him, but she is in a  
15 situation where, one, she cannot provide much supervision to  
16 him, and two, that we're not certain that the apartment  
17 complex will accept him. And I think that's an important fact  
18 that we need to ascertain before we can move any further as  
19 far as his release to that complex.

20 THE COURT: Well, and the law says the proposal, the  
21 bond proposal, isn't supposed to be heroic and it's pretty  
22 close to heroic now. I articulated my concern or -- concern  
23 about what all has been happening since November. And  
24 Mr. Brown hasn't been working since November. I'm trying to  
25 figure out how to square what release would look like with the

1 bond proposal and the safety concern.

2 That was some thinking out loud. I didn't mean to  
3 interrupt you.

4 MR. MCCOMB: No, no. I was finished. I was just  
5 listening, Your Honor.

6 MS. ROBERTSON: Your Honor, our proposal would be that  
7 the Court address this similar to how we deal with release to  
8 a drug treatment facility where he would not be released  
9 unless and until there is proof provided to the probation  
10 office that he has been added to the lease and he is lawfully  
11 allowed to reside at the residence.

12 THE COURT: Right, right.

13 Anything else?

14 MR. MCCOMB: Nothing else.

15 THE COURT: Well, Miss Robertson, as I said, I think  
16 you make a lot of good points. And if you can get in the  
17 record that he would be accepted on the lease, I think that's  
18 worth doing. Based on the concerns I've articulated, I think  
19 there's just too much in light of the -- what I would call the  
20 heroic bond proposal.

21 So, Mr. Brown, I'm ordering detention. You will be  
22 remanded to the custody of the U.S. Marshal. I find the  
23 Government has carried its burden to establish risk of danger.

24 Mr. McComb, anything else for today?

25 MR. MCCOMB: Nothing from the Government, Your Honor.

1 THE COURT: Miss Robertson?

2 MS. ROBERTSON: Your Honor, just to be clear, I just  
3 want to make sure I understand the Court's first comment  
4 before the Court ordered Mr. Brown detained. Were we to  
5 determine that he could reside at that residence, would the  
6 Court just ask that we submit that, or are you --

7 THE COURT: I would suggest you do that just to  
8 complete your record. I'm not suggesting that it would change  
9 the determination right now, but I would -- if you can get  
10 that, I think that would be worth completing the record on.

11 MS. ROBERTSON: Okay.

12 THE COURT: We're adjourned for today.

13 (Adjourned accordingly at 11:42 a.m.)  
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## C E R T I F I C A T E

I certify that the foregoing is a correct transcript  
from the record of proceedings in the above-entitled matter.

Dated: April 9, 2024

*Pamela G. Weyant*

Pamela G. Weyant, RDR, CRR, CCR  
Official Court Reporter